



Federal Communications Commission  
Washington, D.C. 20554

October 2, 2020

Nexstar Broadcasting, Inc.  
c/o Elizabeth Ryder  
PO Box 75062  
Suite 700  
Irving, TX 75062  
[eryder@nexstar.tv](mailto:eryder@nexstar.tv)  
(via electronic mail)

KBVO-CD, Austin, TX  
Facility ID No. 35918  
LMS File No. 0000121394

Dear Licensee:

This letter is in reference to the above captioned application for legal special temporary authority (Legal STA) filed by Nexstar Broadcasting, Inc. (Nexstar or Licensee), licensee of full power television station KBVO-CD, Oklahoma City, Oklahoma (KBVO or Station).<sup>1</sup> In its Legal STA, Nexstar requests authorization to allow some of KBVO's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on the facilities of KEYE-TV, Austin, Texas (KEYE), licensed to KEYE Licensee, LLC, and KXAN-TV, Austin, Texas (KXAN), which is commonly owned by Nexstar (referred to jointly as "multicast hosts").<sup>2</sup> This arrangement between Nexstar and the multicast hosts has been entered into in connection with KBVO's transition of its facility to the ATSC 3.0 transmission standard. Although Scripps has agreed to indemnify Sinclair from all liabilities or claims resulting from the airing of KBVO's multicast streams over its facilities,<sup>3</sup> Nexstar has requested the instant authorization to make clear that Nexstar will remain responsible from a statutory and regulatory perspective for KBVO's multicast streams.<sup>4</sup> Specifically, Nexstar requests that KBVO be treated as if it is still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communication Act of 1934, as amended (Act) and the Commission's rules (Rules).<sup>5</sup> For the reasons below, we grant Nexstar's request.

---

<sup>1</sup> Application of Nexstar Broadcasting, Inc. for Legal Special Temporary Authority as amended, LMS File No. 0000121394, as amended (filed Sep. 30, 2020) (KBVO Legal STA).

<sup>2</sup> KEYE is licensed to operate on RF channel 34, and KXAN is licensed to operate on RF channel 21.

<sup>3</sup> KBVO Legal STA at 2.

<sup>4</sup> As stated above, KBVO and KXAN are commonly owned by Nexstar. Counsel for Nexstar has informed Video Division staff that because the stations are commonly owned, they have not entered into any contractual indemnification or a written simulcast agreement. *See Media Bureau Announces That It Will Begin Accepting Next Generation Television (ATSC 3.0) License Applications in the Commission's Licensing and Management System on May 28, 2019*, GN Docket No. 16-142, 34 FCC Rcd 3684, 3685, n.5 (MB 2019) (not requiring commonly owned stations enter into or maintain written simulcast agreements). However, to ensure clarity under the rules, Nexstar requests that the instant legal authorization cover KBVO's multicast stream aired over the facilities of KXAN.

<sup>5</sup> *See Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 79-82 (2017) (*Next Gen TV Report and Order*) (requiring Next Gen TV broadcasters to comply with all Commission broadcast rules,

*Background.* On September 22, 2020, the Video Division granted KBVO's application for modification of license to convert its existing broadcast facility to ATSC 3.0 transmissions.<sup>6</sup> As required by section 73.3801 of the Rules,<sup>7</sup> KBVO's primary stream will be simulcast in an ATSC 1.0 format over the facility of KNVA(TV), Austin, Texas (KNVA), licensed to 54 Broadcasting, Inc.<sup>8</sup> In addition to its primary stream, KBVO currently broadcasts three multicast channels: BounceTV, H&I, and Antenna TV.<sup>9</sup> In order to avoid the loss of KBVO's over-the-air multicast programming to its current ATSC 1.0 viewers, Nexstar has entered into a written agreement with KEYE to broadcast BounceTV and H&I using the facilities and channel of KEYE, and plans to broadcast Antenna TV using the facilities and channel of KXAN.<sup>10</sup> As part of the same arrangement, KEYE has been provided capacity as an ATSC 3.0 guest station on KBVO's facility.<sup>11</sup>

KBVO plans to convert its facility to ATSC 3.0 and commence its ATSC 1.0 operations over the facilities of KFOR (primary), KOKH, and KOCB (multicast streams) on October 6, 2020.<sup>12</sup> On September 10, 2020, Nexstar filed the instant Legal STA.<sup>13</sup> As noted in the Legal STA, because of ATSC 1.0 capacity constraints, KBVO is not able to air all of its multicast streams on the same channel as its primary ATSC 1.0 signal, which is being hosted on KNVA.<sup>14</sup> Furthermore, due to capacity and other constraints Nexstar is not able to simulcast an ATSC 3.0 version of KBVO's multicast streams.<sup>15</sup> Pursuant to an engineering study conducted by the Licensee, under its arrangement with the multicast hosts, 100% of KBVO's current over-the-air ATSC 1.0 viewers will retain access to its multicast programming.<sup>16</sup> Absent the proposed arrangement and grant of the instant request, Nexstar states that "all

---

including, but not limited to, the Rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection file, indecency, sponsorship identification, etc.).

<sup>6</sup> Application of Nexstar Broadcasting, Inc. for Modification of License, LMS File No. 0000121392 (granted Sep. 22, 2020) (KBVO License Modification).

<sup>7</sup> 47 CFR § 73.3801(b).

<sup>8</sup> KNVA is licensed to operate on RF channel 23.

<sup>9</sup> KBVO Legal STA at 1.

<sup>10</sup> *Id.*

<sup>11</sup> KBVO License Modification at 2.

<sup>12</sup> KBVO Legal STA at 2.

<sup>13</sup> The Legal STA was subsequently amended on September 24 and September 30..

<sup>14</sup> KBVO Legal STA at 1.

<sup>15</sup> Specifically, Nexstar states that in order to air an ATSC 3.0 simulcast of the Station's multicast streams, KBVO would not be able to accommodate current ATSC 3.0 guests as arranged. According to Nexstar, to do so would not only require a reworking of existing ATSC 3.0 agreements, but impact stations' abilities to offer enhanced ATSC 3.0 offerings, such High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels, and non-real time interactive data delivery. Furthermore, Nexstar notes that additional engineering work and equipment would be required to accommodate simulcasting KBVO's multicast streams in both an ATSC 1.0 and ATSC 3.0 format. *Id.*

<sup>16</sup> KEYE and KXAN both cover 100% of KBVO's current over-the-air ATSC 1.0 viewers. KBVO Legal STA, Technical Statement at 2, 7 (KBVO Technical Statement). We also note that KBVO's ATSC 1.0 primary simulcast that is being aired over the facility of KNVA will cover 100% of KBVO's current ATSC 1.0 service population. *See* KBVO License Modification, Technical Statement at 1, 5.

over-the-air viewers would lose access to KBVO(TV)'s multicast streams."<sup>17</sup> The Licensee's engineering study also shows that its multicast streams will continue to serve KBVO's community of license (which is the same as the one assigned to the multicast hosts).<sup>18</sup>

Nexstar goes on to state that it provided the requisite notice to MVPDs regarding relocation of KBVO's primary ATSC 1.0 stream and its multicast streams.<sup>19</sup> KBVO also has been airing the requisite over-the-air announcements<sup>20</sup> and posted to its website consumer notices regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets in order to continue to receive KBVO's ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channels for each of KBVO's program streams will remain unchanged and will be identified to viewers as being associated with KBVO.<sup>21</sup>

*Discussion.* We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of Licensee's Legal STA. Under the Rules, Next Gen TV Broadcasters are not required to simulcast or continue airing their existing multicast streams.<sup>22</sup> Grant of the instant Legal STA will promote continued transmission of KBVO's multicast programming streams to viewers and, by providing KBVO an authorization to air these signals over the hosts' facilities, make clear that Nexstar is responsible for the content of those signals from a regulatory compliance and enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to KBVO's multicast streams airing on KEYE and KXAN, we will treat those signals as multicast streams being originated by KBVO, even though they are being transmitted over the multicast hosts' facilities. That is, Nexstar is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regards to KBVO's three original multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children's programming,<sup>23</sup> equal employment opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System. Furthermore, because the Commission's rules do not require that a multicast stream be simulcasted,<sup>24</sup> we will not require that KBVO air an ATSC 3.0 version of the ATSC 1.0 multicast streams being aired over the multicast hosts' facilities.

Given that the current arrangement is temporary and is in furtherance of an ATSC 3.0 simulcasting arrangement, we will not apply the broadcast ownership rules to the extent that the arrangement would result in a potential violation of those rules. We find this approach is consistent with the Commission's decision and underlying basis to "not apply the broadcast ownership rules in any

---

<sup>17</sup> KBVO Legal STA at 1.

<sup>18</sup> KBVO Technical Statement, *supra*. note 16 at 1-2, 7.

<sup>19</sup> *Id.* at 2. See 47 CFR § 73.3801(g) (Notice to MVPDs).

<sup>20</sup> KBVO Legal STA at 2. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

<sup>21</sup> KBVO Legal STA at 2.

<sup>22</sup> *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40.

<sup>23</sup> Nexstar notes in its Legal STA that KBVO "does not currently, and does not intend to, rely on its multicast streams for compliance with the Commission's Children's Television Programming requirements.... As such, neither KBVO's compliance with the Commission's Children's Television Programming requirements and viewers' access to the station's core programming will be affected." KBVO Legal STA at 2.

<sup>24</sup> See *supra* note 22.

situation where airing an ATSC 3.0 signal or an ATSC 1.0 simulcast on a temporary host station's facility would result in a potential violation of those rules.”<sup>25</sup> For purposes of the instant Legal STA, we find compelling the capacity and engineering constraints that the Licensee has set forth.<sup>26</sup>

We are taking this temporary measure in order to help facilitate the deployment of ATSC 3.0 and in light of the evolving nature of ATSC 3.0 deployment and related agreements. To the extent that the Commission's existing rules do not provide sufficient clarity or guidance on issues related to the relocation of ATSC 1.0 multicast streams (simulcasted or non-simulcasted) and any other arrangements that have become necessary as part of broadcasters' voluntary transition to ATSC 3.0 since the Commission's ATSC 3.0 rules were adopted over two years ago, we encourage licensees to seek formal modification or clarification of the Commission's existing rules prior to seeking renewal of the instant Legal STA.

As explained above, we will continue to consider these program streams to be KBVO's multicast streams even though they are being aired on a different channel than KBVO's ATSC 1.0 primary stream. Multicast signals are not entitled to mandatory carriage rights,<sup>27</sup> and this authorization does not modify or alter KBVO's mandatory carriage rights. Ultimately any impact on an MVPD's ability to carry KBVO's multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between Nexstar and the affected MVPDs. According to Nexstar, it “does not expect there to be any adverse impact on MVPD viewers.”<sup>28</sup> As stated, Nexstar states it has provided written notice to all impacted MVPDs, is coordinating with all impacted MVPDs, and will continue to coordinate as needed with potentially affected MVPDs to ensure they continue to receive a good quality signal of the multicast streams over-the-air or via alternative delivery methods, such as direct fiber feed.<sup>29</sup> As a result, we do not expect there to be any adverse impact on MVPD viewers.

Accordingly, the above captioned Legal STA requested by Nexstar Broadcasting Holdings LLC, licensee of KBVO-CD, Austin, Texas, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on April 1, 2021. For purposes of the Act and the Commission's rules, we will consider the multicast program streams of BounceTV, H&I, and Antenna TV to be originated by KBVO, even though they are being aired over the multicast hosts' facilities. Further, we will not apply our ownership rules to the extent the instant temporary arrangement would otherwise result in a potential violation of those rules so long as KBVO's multicast streams are being aired on the facilities of KEYE and KXAN

---

<sup>25</sup> *Next Gen TV Report and Order*, 32 FCC Rcd at 9972, para. 80, n.237. See also *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Declaratory Ruling and Notice of Proposed Rulemaking, 35 FCC Rcd 5916, 5924, para. 15 (2020).

<sup>26</sup> *Supra* note 15.

<sup>27</sup> See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket Nos. 98-120, 00-96 and 00-2, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2621-22, para. 54 (2001); affirmed by *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, Second Report and Order and First Order on Reconsideration, CS Docket No. 98-120, 20 FCC Rcd 4516, 4518, para. 3 (2005) (*DTV Must-Carry Second R&O*) (declining to require cable systems to carry a licensee's multicast streams). In the *DTV Must-Carry Second R&O*, the Commission affirmed its decision in the First Report and Order to interpret the statutory term “primary video” to mean only a single programming stream. If a digital broadcaster elects to divide its digital spectrum into several separate programming streams, only one of these streams is entitled to mandatory carriage. *Id.* at 4530-37, paras. 28-44.

<sup>28</sup> KBVO Legal STA at 2.

<sup>29</sup> *Id.*

pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., KBVO is operating an authorized ATSC 3.0 facility and its primary stream, absent waiver, is being aired over the facility of an ATSC 1.0 simulcast host). Any change in the multicast streams being aired over the multicast hosts' facilities by KBVO or relocating KBVO's multicast streams to a new ATSC 1.0 multicast host, will require the filing of a new request. Nexstar agrees to coordinate with MVPDs as necessary. While renewal of the instant authorization may be requested, there is no expectation of renewal and whether renewal is granted will be subject to any additional Commission or Bureau decisions on the treatment of multicast streams pursuant to an ATSC 3.0 simulcasting arrangement.

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

Cc: (via electronic mail):  
Jason Roberts (Counsel for Nexstar)  
Miles Mason (Counsel for KEYE Licensee)